

Remarks:

Claims 1-25 are pending in the current application. Claims 1-25 are cancelled by the virtue of this amendment. New claims 26-30 are provided. No new matter has been added. Support for the new is provided in the specification and the drawings. The Applicant respectfully traverses the 102 and 103 grounds of rejection and submits that said grounds of rejection now moot in view of the cancellation of claims 1-25.

**§102 Rejection(s):**

Claims 1-3, 5-9, 11-18, and 20-25 were rejected under 35 U.S.C. §102(e) as being anticipated by US Application Number 2002/0159406 (hereinafter referred to as "the Fukuda reference").

The Fukuda reference is directed to a radiocommunication device capable of receiving and transmitting TCP/IP or PPP data packets and short-range radiocommunication data, or Bluetooth data packets. The radiocommunication device can only transmits and receives IP packets and Bluetooth data to/from a mobile telephone. See pars. [0055] to [0058]. The object of the Fukuda reference is to eliminate an Internet protocol stack installation in the mobile telephone of a radiocommunication system because the hardware and software become large and thus complicate the construction and increase the cost of manufacture for each of the devices. See par. [0022].

It is respectfully noted that anticipation of claims using a drawing requires that "the picture must show all the claimed structural features and how they are put together" and "[t]he drawings must be evaluated for what they reasonably disclose and suggest to one of ordinary skill in the art." MPEP §2125. Furthermore, anticipation of a claim under 35 U.S.C. §102 (a), (b) and (c) requires that "each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," that "[t]he identical invention must be shown in as complete detail as is contained in the ... claim" and "[t]he elements must be arranged as required by the claim." MPEP §2131.

The Fukuda reference fails to disclose or suggest all the elements and relationships recited in claims 26-30. Since the Fukuda reference fails to disclose all the recited elements in the amended claim 1, the Examiner is respectfully requested to withdraw the 102 grounds of rejection or point out the portions of the cited reference that suggest all such elements and relationships with specificity.

For the above reasons, it is respectfully submitted that claims 26-30 should be in condition for allowance.

**§103 Rejection(s):**

Claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over US Application Number 2002/0159406, the Fukuda reference, in view of US Patent Number 6,831,902 (hereinafter referred to as “the Dougherty reference”). The Examiner contends that it would have been obvious to have a private IP address of the Dougherty reference included with the communicating device of the Fukuda reference for the purpose of attaching a cellular data service to a short distance wireless network.

Further, claims 10 and 19 were rejected under 35 U.S.C. §103(a) as being unpatentable over US Application Number 2002/0159406, the Fukuda reference, in view of US Application Number 2002/0082054 (hereinafter referred to as “the Keinonen et al. reference”). The Examiner contends that it would have been obvious to have the cellular data service implemented in a general packet radio service (“GPRS”) in a Global System for Mobile communications (“GSM”) cellular network, of the Dougherty reference included with the communicating with the device of the Fukuda reference for the purpose of attaching a cellular data service to a short distance wireless network.

As noted above, claims 1-25 have been cancelled. As such, the 103 rejections are now moot. Further, neither of the cited references either alone or in combination teach or suggest:

“A method of networking devices, the method comprising:

establishing a first connection directly between a first device and a mobile communication terminal over a short range communication protocol;

establishing a second connection between a second device and the mobile communication terminal over a wide range cellular communication protocol;

receiving a first request from the first device over the first direct connection to communicate with the second device over the second connection;

providing the first device with a first IP address over the short range communication protocol, such that the first device is distinguishable from other devices capable of connecting to the mobile communication terminal over the short range communication protocol;

receiving data communicated over the wide range cellular communication protocol from the second device; and

communicating the received data to the first device over the short range communication protocol, in response to determining that the data received from the second device is designated for the first IP address associated with the first device,

wherein the above receiving, providing and communicating steps are performed by a routing software executing directly over the mobile communication terminal.”

The Examiner admits that the Fukuda reference does not teach using a private IP address when requesting an IP address in a short distance wireless network nor does Fukuda teach the cellular data service being a general packet radio service (“GPRS”) in a Global System for Mobile communications (“GSM”) cellular network. The Dougherty reference teaches routing information packets in a distributed network by determining a forwarding equivalency class for each subscriber unit accessing the network whereby a communication system includes an IP layer where the IP addresses for the communication system will use a private IP address space that cannot be routed within public systems such as the Internet. The Keinonen reference teaches a mobile emotional notification application communication system for sending notifying messages whereby terminals are connected to a single mobile network with wireless connections of a type including, but not limited to, GSM (Global Standard for Mobile/Group Special Mobile). Neither Dougherty nor Keinonen references cure the deficiencies of the Fukuda reference.

Applicants respectfully traverse the Examiner’s rejection. MPEP §2143 provides:

“To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.”

While the suggestion to modify or combine references may come from the knowledge and common sense of a person of ordinary skill in the art, the fact that such knowledge may have been within the province of the ordinary artisan does not in and of itself make it so, absent clear and convincing

evidence of such knowledge. *C.R. Bard, Inc. v. M3 Systems, Inc.*, 157 F.3d 1340, 1352, 48 U.S.P.Q.2d 1225, 1232 (Fed. Cir. 1998) (emphasis added).

Here, the modification or combination proposed by the Examiner is not based on any clear and convincing evidence of a reason, suggestion, or motivation in the prior art that would have led one of ordinary skill in the art to combine the references. Rather, the reason, suggestion and motivation for the combination of references proposed by the Examiner simply is impermissible hindsight reconstruction given the benefit of the references' disclosures.

The Federal Circuit has consistently held that hindsight reconstruction does not constitute a prima facie case of obviousness under 35 U.S.C. § 103. In re Geiger, 2 USPQ2d 1276 (Fed Cir. 1987). Unfortunately, the Examiner rather than pointing to what the prior art discloses and teaches as to making the suggested modification relies on assumptions and statements without any support in the record. As such, the Examiner's statements regarding obviousness and motivation to modify are but shortcuts to a conclusion of obviousness devoid of the required analytical approach based on what is actually disclosed in the prior art.

Reliance on impermissible hindsight to avoid express limitations in the claims and setting forth unsupported hypothetical teachings to recreate the Applicant's claimed invention cannot establish a prima facie case of obviousness. Since obviousness may not be established by hindsight reconstruction, Applicants invite the Examiner to point out the alleged motivation to combine with specificity,<sup>1</sup> or alternatively provide a reference or affidavit in support thereof, pursuant to MPEP §2144.03.<sup>2</sup>

Since no reasonable justification is provided in the Office Action as to how such modification or combination is possible and obviousness may not be established based on hindsight and conjecture, it is respectfully requested that the 103 grounds of rejection be withdrawn.

Since the Fukuda reference either alone or in combination with the Dougherty and Keinonen references fails to teach, suggest, or disclose the recited elements in claim 26, claim 26 should be in condition for allowance. The Examiner is respectfully requested to withdraw the 103 grounds of

rejection or point out the portions of the cited references that teach or suggest such elements, or their combination, with specificity.

For the above reasons, claims 26 and its dependent claims 27-30 should be in condition for allowance. No amendment made was related to the statutory requirements of patentability unless expressly stated herein; and no amendment made was for the purpose of narrowing the scope of any claim, unless Applicants have expressly argued herein that such amendment was made to distinguish over a particular reference or combination of references.

It is submitted that this application is now in good order for allowance and such allowance is respectfully solicited. Should the Examiner believe that there are matters relating to this application remaining that can be resolved in a telephone interview, the Examiner is urged to call the Applicant's undersigned attorney.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California, telephone number (213) 623 2221 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,

/F. Jason Far-hadian, Esq./

Date: June 29, 2007

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<sup>1</sup> *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984).

<sup>2</sup> "The rationale supporting an obviousness rejection may be based on common knowledge in the art or "well-known" prior art . . . If the applicant traverses such an assertion the examiner should cite a reference in support of his or her position. When a rejection is based on facts within the personal knowledge of the examiner . . . the facts must be supported, when called for by the applicant, by an affidavit from the examiner."